LRBa1189

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB563)

Received: **01/20/2000**

Wanted: **01/21/2000**

For: **Marlin Schneider (608) 266-0215**

This file may be shown to any legislator: NO

May Contact:

Subject: **Fin. Inst. - banking inst.**

Received By: **rmarchan**

Identical to LRB:

By/Representing: himself

Drafter: **rmarchan**

Alt. Drafters:

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Universal banking

Instructions:

See Attached. Require customer to consent to disclosure of personal financial information to non-affiliates.

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	rmarchan 01/20/2000	chanaman 01/20/2000		_____ _____			
/1	rmarchan 01/21/2000	chanaman 01/21/2000	martykr 01/21/2000	_____ _____	lrb-docadmin 01/21/2000	lrb-docadmin 01/21/2000	
/2			haugeca 01/21/2000	_____ _____	lrb-docadmin 01/21/2000	lrb-docadmin 01/21/2000	

FE Sent For:

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/?	rmarchan	cmk 1/20	/km 1/21	cb /km 1/21	1/19 1:55		

FE Sent For:

/20

<END>

Rob — per our conversation of 2 mins ago; Thanks! Judy 6-0215 ASAP if possible

RJM

ACLU American
Civil Liberties Union
of Wisconsin
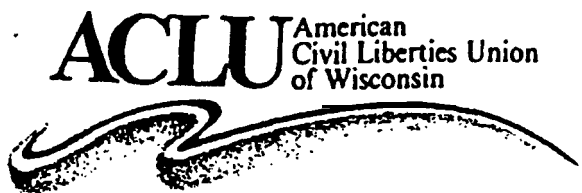
ACLU DATA PRIVACY PROJECT
Carole M. Doeppers, Project Director

January 14, 2000

Rep. Mark Meyer, Member
Committee on Financial Institutions
320 West, State Capitol
Madison, WI 5 3708

RE: Proposed amendment to Assembly Bill 563

Dear Rep. Meyer:

As a result of the non-preemption provisions of the Federal Financial Services Bill
enacted earlier this fall, there is substantial activity to modernize banking in state
legislatures. Wisconsin is no exception as indicated by your consideration of
the above referenced bill, AB 563.

I have no quarrel with the overall intent of this legislation. However, I have serious
reservations regarding the other services and incidental activity powers spelled out in
Sec. 222.0413. Of particular concern is the ability of newly created 'universal
banks' to share sensitive financially-related customer information with an ever
expanding number of affiliates who will be permitted to be involved in such services
as securities brokerage, insurance, real estate and tax preparation.

Although AB 563 **parallels** the Federal Financial Services Bill to a large extent, it
needs to pass muster and meet community standards here in Wisconsin. Thus I urge
you to consider an amendment requiring customer consent (opt-in) before universal
banks can share or sell sensitive financially-related information <u>with/to its affiliates</u> as
well as outside third parties.

If universal banks are not obligated to seek affirmative customer consent to use
financial information for various secondary purposes (including marketing), then
customers will feel powerless to control how their own sensitive information is being
reused and potentially misused. Almost every recent public opinion poll reflects
increasing citizen concern over this very **issue** -- the lack of control over one's own
personal information.

That is why my amendment is so important. It would help restore a sense of trust between customers and the financial industry that has been lost in recent years. Such a trusting relationship is essential if the public is to have confidence that the newly created universal banks are an ethical repository for their assets and not one more avenue for marketing and aggressive promotions.

Finally, an amendment prohibiting affiliate data sharing without customer consent will bring us more in line with other democracies in the industrialized world. The European Union, for instance, now requires heightened privacy protections for what they categorize as 'sensitive data' which includes information about a person's health and finances. In this computer age it behooves us to follow that model!

Thank you for hearing my concerns. I hope you will consider offering an amendment to AB 563 that prohibits the sharing, exchange and/or sale of personal financially-related information involving affiliates (including marketers) as well as outside third parties, unless direct permission has first been obtained from the customer.

Sincerely,

Carole M. Doeppers, Director
Wisconsin Data Privacy Project

1-20-00   tcf Rep. Schreder

– State can't regulate affiliate to affiliate
disclosures. See 15 USC 1681t (b)(2)

– Rep Schreder says O.K. to put in exceptions for
affiliate to affiliate. Require opt-in, otherwise.

~~PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION~~

ASSEMBLY AMENDMENT,

TO 1999 ASSEMBLY BILL 563

j when used in relation to any person, means another person who owns or controls, is owned or controlled by or is under common ownership control with the person

1   At the locations indicated, amend the bill as follows:

2   **1.** Page 6, line 2: after that line insert:

3   "**(lm)** "Affiliate" ~~has the meaning given in 66.082 (2) (a)~~.".

4   2. Page 6, line 23: after that line insert:

5   "**(5v)** "Personal financial information" means information that is financial in

6   nature and that can be associated with a particular individual through one or more

7   identifiers or through other information or circumstances.".

8   3. Page 25, line 21: after that line insert:

9   " SUBCHAPTER v

10   FINANCIAL PRIVACY

11   **222.0505 Disclosure of personal financial information prohibited.**

12   Except as provided in s. 222.0515, no universal bank may disclose to another person

1'   any personal financial information that relates to a customer of the universal bank

2   or that relates to a customer of an affiliate of the universal bank.

3   **222.0510 Disclosure by affiliates and agents. No** affiliate or agent of a

4   universal bank may disclose to another person any personal financial information

5   that relates to a customer of the universal bank or to a customer of an affiliate of the

6   universal bank, unless the disclosure is to the universal bank or unless the universal

7   bank would be allowed to make the disclosure under s. 222.0515.

8   **222.0515 Exceptions.** A universal bank may disclose personal financial

9   information that relates to a customer of the universal bank or that relates to a

10   customer of an affiliate of the universal bank if any of the following applies:

11   (1) (a) The disclosure is made with the written consent of the customer.

12   (2) (b) The disclosure is made as necessary to effect, administer or enforce a

13   transaction that is requested or authorized by the customer, to provide a financial

14   product or service that is requested or authorized by the customer or to maintain or

15   service the customer's account with the universal bank or affiliate.

16   (3) (c) The disclosure is made to persons acting in a fiduciary or representative

17   capacity on behalf of the customer.

18   (4) (d) The disclosure is made to an affiliate of the universal bank.

19   (5) (e) Consistent with 15 USC 1681 to 1681u, the disclosure is made to a consumer

20   reporting agency for purposes of a consumer report or is made from a consumer

21   report prepared by a consumer reporting agency.

22   (6) (f) The disclosure is made to a county child support agency that is attempting

23   to establish, modify or enforce a child support obligation of the customer, is made to

24   a state or federal agency or is made to a law enforcement agency.

25   **(END)**

Representative Schneider:

1. The attached amendment creates a financial privacy requirement applicable to universal banks. Generally, a universal bank must obtain a customer's consent in order to disclose personal financial information to a nonaffiliate. However, the amendment includes certain exceptions that permit disclosure of personal financial information. See proposed s. 222.0515 (a) to (f). Please review these exceptions to ensure that they are consistent with your intent.

2. In addition to the exceptions currently in the amendment, you may want to permit a universal bank to disclose personal financial information to the bank's own agents and contractors for the purposes of allowing these agents and contractors to perform services for the bank.

3. Under the federal Gramm-Leach-Bliley Act (GLBA), the federal trade commission has authority to determine whether the "opt-in" procedure established by this amendment is preempted by the GLBA. The GLBA covers state financial institutions that are insured through the FDIC and, upon taking effect, will establish an "opt-out" procedure for the disclosure of personal financial information. Although these provisions of the GLBA generally preempt any inconsistent state law, these provisions do not preempt a state law that, in the opinion of the federal trade commission, provides a person with greater protections.

If you desire any changes to the amendment or if you have any questions, please feel free to call.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us

January 21, 2000

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(NOW)

ASSEMBLY AMENDMENT,

TO 1999 ASSEMBLY BILL 563

Affiliate

1   At the locations indicated, amend the bill as follows:

2   **1.** Page 6, line 2: after that line insert:

3   "**(1m)** "*Alternative*", when used in relation to any person, means another

4   person who owns or controls, is owned or controlled by or is under common ownership

5   control with the person.".

6   2. Page 6, line 23: after that line insert:

7   "**(5v)** "Personal financial information" means information that is financial in

8   nature and that can be associated with a particular individual through one or more

9   identifiers or through other information or circumstances.".

10   **3.** Page 25, line 21: after that line insert:

11   "SUBCHAPTER V

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11   information that relates to a customer of the universal bank or that relates to a

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